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Attorney for Plaintiff

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA**

KEWAL SHRESTHA, on behalf of himself and all others similarly situated,

**Plaintiff**

V.

THE HERTZ CORPORATION, AMERICAN  
TRAFFIC SOLUTIONS, INC., and  
PLATEPASS, LLC.

### Defendants.

**Case No.:**

**COMPLAINT FOR: (1) VIOLATION OF THE CALIFORNIA CONSUMER LEGAL REMEDIES ACT (CAL. CIV. CODE §§ 1750, *et seq.*); (2) VIOLATION OF THE CALIFORNIA UNFAIR COMPETITION LAW (UNLAWFUL BUSINESS PRACTICES) (CAL. BUS. & PROF. CODE §§ 17200, *et seq.*); (3) VIOLATION OF THE CALIFORNIA UNFAIR COMPETITION LAW (UNFAIR BUSINESS PRACTICES) (CAL. BUS. & PROF. CODE § 17200, *et seq.*); and (4) VIOLATION OF THE CALIFORNIA UNFAIR COMPETITION LAW (FRAUDULENT BUSINESS PRACTICES) (CAL. BUS. & PROF. CODE § 17200, *et seq.*);**

## **CLASS ACTION**

## **JURY TRIAL DEMANDED**

1 Plaintiff Kewal Shrestha (hereafter “Plaintiff”), by and through his attorney, brings this  
2 action on behalf of himself and all others similarly situated against Defendants The Hertz  
3 Corporation (“Hertz”), American Traffic Solutions, Inc. (“ATS”), and PlatePass, LLC  
4 (“PlatePass”) (collectively, “Defendants”) and alleges as follows:

5 **I. NATURE OF THE ACTION**

- 6 1. Plaintiff and putative class members are certain individuals who have rented vehicles  
7 from Hertz in the State of California. Hertz, ATS, and PlatePass have, jointly,  
8 implemented a scheme pursuant to which Defendants actively withhold the fact that  
9 renters of Hertz vehicles are able to pay the toll for the Golden Gate Bridge without  
10 utilizing Defendants’ PlatePass “service” – a service that results in millions of dollars in  
11 service fees paid by consumers to Defendants. This scheme, described in more detail  
12 below, is a violation of California law, including the California Consumers Legal  
13 Remedies Act, Cal. Civ. Code §§ 1750, *et seq.*, (“CLRA”) and the California Unfair  
14 Competition Law, Cal. Bus. & Prof. Code §§ 17200, *et seq.* (“UCL”).  
15
- 16 2. As set forth in Hertz’s vehicle rental agreements, renters are automatically enrolled and  
17 charged for a the PlatePass service, whereby any time a renter without a personal  
18 FasTrak transponder uses a non-cash lane at a toll plaza, he or she is charged by  
19 Defendants the cost of the toll, plus a “service fee” of \$4.95 per day, including days on  
20 which the renter does not go through a toll, for the duration of the rental agreement,  
21 capped at \$24.75 per rental period.  
22
- 23 3. On March 27, 2013, Golden Gate Bridge Highway and Transportation District (hereafter  
24 “the District”), the entity responsible for tolls on the Golden Gate Bridge, eliminated the  
25 cash payment lanes at the Golden Gate Bridge toll plaza. However, the District *does*  
26 accept direct payments for tolls that do not require the use of a FasTrak transponder or  
27 the PlatePass service. Drivers have the option of paying within 48 hours of crossing the  
28 bridge at one of 130 cash payment kiosks throughout the bay area, or online, or over the

1 phone. There are no additional fees charged by the District for making a payment in  
2 these ways. Alternatively, drivers have the option of paying the toll by mail upon receipt  
3 of a toll invoice sent by the District. There are no additional fees charged by the District  
4 for making a payment in this way.

5 However, Defendants do not disclose these payment options to Hertz renters, and instead  
6 allow Hertz renters to believe that PlatePass service fees arising from traveling through  
7 the tolls on the Golden Gate Bridge are unavoidable.

8 Moreover, Plaintiff is informed and believes that Hertz renters are in fact precluded from  
9 utilizing the District's pay by mail option because, pursuant to the PlatePass system,  
10 Defendants automatically advance the toll payment for Hertz renters when the renters go  
11 through the toll, and, under such circumstances, the District does not mail a toll invoice  
12 to renters.

13 6. Defendants have a duty to disclose the above-described payment options to Hertz renters  
14 because Defendants actively conceal these options from renters by stating on the  
15 PlatePass website that renters do not have a cash option to pay the Golden Gate Bridge  
16 toll when, in fact, renters have the option to pay cash at kiosks, and utilize the other  
17 payment options as described above.<sup>1</sup>

18 7. Defendants also have a duty to disclose the above-described payment options to Hertz  
19 renters because Defendants partially – and accurately – represent that the Golden Gate  
20 Bridge *tolls* do not accept cash, but also suppress the material fact that Hertz renters are  
21 able to pay the District at *other* locations or by other means, using cash or other options.

22 //

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23 24 25 1. On the platepass.com website, at platepass.com/locations, PlatePass identifies all electronic tolling  
26 systems with which it is compatible, including the FasTrak tolling system in the San Francisco Bay Area. (Exhibit  
27 A.) It further identifies, with an asterisk, tolling facilities that "no longer accept cash" and states: "If you use any of  
28 these facilities without using a personal toll transponder you will be charged for using PlatePass as no cash option  
is available." *Id.* One tolling facility identified with an asterisk is the Golden Gate Bridge. *Id.* Hertz customers are  
directed to the platepass.com website at the point of sale, both online and at physical Hertz locations.

- 1       8. The District has been attempting to convince car rental companies like Hertz to be more  
2 transparent about how the Golden Gate Bridge toll payment system works and to  
3 encourage rental car companies to make full and complete disclosure to customers so  
4 that customers are not charged avoidable and exorbitant service fees. For example, a  
5 June 4, 2015 article on sfgate.com reported that “Diana Fehler, a Golden Gate Bridge  
6 District spokeswoman, said the agency has worked with car rental companies to help  
7 eliminate the confusion and ensure that they let customers know they can pay their tolls  
8 directly to the district without incurring what the companies call service or convenience  
9 fees.” And yet, when Plaintiff called Hertz to clarify the PlatePass charge on his credit  
10 card bill, he was told, “it is not [Hertz’s] job to educate [him].”
- 11      9. Defendants’ failure to disclose the fact that the District does, in fact, accept payments by  
12 the above-described means, and its active concealment and partial representations  
13 pertaining to this fact, are designed to trick Hertz renters into incurring avoidable service  
14 fees, and has resulted in millions of dollars of ill-gained profits to Defendants.

## II. JURISDICTION

10. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §  
11 1332(d) (the Class Action Fairness Act of 2005 (“CAFA”)) because the amount in  
12 controversy exceeds the value of \$5 million, because the class contains 100 or more  
13 putative class members, and because Plaintiff and Defendants are residents of different  
14 states.
15. The Court has jurisdiction over Hertz because Hertz purposefully avails itself of the  
16 privilege of conducting activities in California by, *inter alia*, selling rental car services in  
17 California.
18. The Court has jurisdiction over ATS and PlatePass because, together, the companies  
19 purposefully avail themselves of the privilege of conducting activities in California by,  
20 *inter alia*, collecting service fees from Hertz renters in California.

### III. VENUE

13. This Court is the proper venue for this matter pursuant to 28 U.S.C. § 1391 because a substantial part of the events giving rise to Plaintiff's claims occurred in the Northern District of California.

#### IV. PARTIES

14. Plaintiff Kewal Shrestha is a citizen of California, domiciled in San Jose, California.

15. Defendant Hertz is a Delaware corporation with its principal place of business in Naples, Florida, and is registered to conduct business in California. Hertz is engaged in the business of, *inter alia*, renting vehicles to consumers in California and around the world. Hertz maintains numerous car rental offices throughout California, and maintains a website available to California consumers.

16. Defendant ATS is a Kansas corporation with its principal place of business in Tempe, Arizona, and is registered to conduct business in California. ATS is engaged in the business of electronic toll enforcement programs throughout the country, including California.

17. Defendant PlatePass is a Delaware limited liability company and is an operational division of ATS that administers ATS's PlatePass system and collects tolls and PlatePass administrative fees throughout the country, including California. PlatePass's principle place of business is in Scottsdale, Arizona.

18. ATS and PlatePass jointly maintain a website, [www.platepass.com](http://www.platepass.com), available to California consumers.

19. Plaintiff is informed and believes that, at all relevant times, Defendants have worked together, as a single enterprise, to carry out the acts and omissions described herein for profit. Plaintiff is informed and believes that each of the Defendants have acted in concert with each and every other Defendant, have intended to and did participate in the events, acts, practices and courses of conduct alleged herein, and have been a cause of

1 damage and injury thereby to Plaintiff and all putative Class Members.

- 2 20. For example, the Hertz website ([www.hertz.com](http://www.hertz.com)) specifically refers to PlatePass as a  
3 “partner.” There is a section on Hertz’s website that describes, in part, how PlatePass  
4 works. There are numerous links to PlatePass’s website from Hertz’s website, including  
5 in Hertz’s online terms and conditions. In Hertz’s “Frequently Asked Questions” section  
6 of its website, it directs consumers to contact PlatePass at PlatePass’s website, telephone  
7 number, or email address regarding PlatePass toll charges and fees. Additionally, printed  
8 materials at Hertz locations describe how PlatePass works and directs consumers to  
9 PlatePass’s website. PlatePass’s website ([www.platepass.com](http://www.platepass.com)) explains, “PlatePass is  
10 offered by Hertz.”
- 11 21. Further, notwithstanding corporate formalities, ATS and PlatePass have combined  
12 operations, and at all times material to this litigation, ATS has actively directed and  
13 controlled the daily activities of PlatePass and totally dominated it, to the extent that  
14 PlatePass manifested no separate corporate interests of its own and functioned solely to  
15 achieve the purposes of ATS.

16 **V. ADDITIONAL FACTUAL ALLEGATIONS**

- 17 22. On or about December 1, 2014, Plaintiff rented a vehicle from Hertz’s Alameda Road,  
18 San Jose, California location. Plaintiff had previously reserved the vehicle online  
19 through Hertz’s website. Plaintiff and his friends used the vehicle to take a road trip to  
20 Portland, Seattle, and back to the Bay Area.
22. 23. On or about December 1, 2014, Plaintiff drove his Hertz rental vehicle southbound over  
23 the Golden Gate Bridge and through the Golden Gate Bridge toll plaza.
24. 24. Plaintiff returned the rental car to Hertz on or about December 3, 2014.
25. 25. Months later, on February 5, 2015, Plaintiff viewed a charge on his credit card statement  
26 from “PlatePass Hertz Tolls” in the amount of \$21.85, arising exclusively from his use  
27 of the Golden Gate Bridge toll plaza.

- 1 26. Pursuant to Defendants' policy, this charge was based on the actual cost of the Golden  
2 Gate Bridge toll, plus the applicable daily PlatePass service fee.
- 3 27. Plaintiff was unaware that he could have paid for the Golden Gate Bridge toll online,  
4 over the phone, or at one of 130 cash-payment kiosks in the bay area, thereby avoiding  
5 the PlatePass service fee. He was also unaware that he could have paid the toll by mail  
6 upon receipt of a toll invoice sent by the District, thereby avoiding the PlatePass service  
7 fee.
- 8 28. Further, Plaintiff is informed and believes that he was actually precluded from utilizing  
9 the pay by mail option because, pursuant to the PlatePass system, Defendants  
10 automatically advanced the toll payment for Plaintiff when he went through the Golden  
11 Gate Bridge toll, and, therefore, the District did not send Plaintiff a toll invoice.
- 12 29. Plaintiff would have used one of these payment options instead of using PlatePass had  
13 he been aware of them.
- 14 30. Defendants have a duty to disclose the fact that Hertz renters are able to pay the Golden  
15 Gate Bridge toll online, over the phone, or at a cash-payment kiosks within 48 hours of  
16 crossing the bridge, or by mail upon receipt of a toll invoice, thereby avoiding the  
17 PlatePass service fee, because (1) Defendants actively conceal this fact from Plaintiff  
18 and the putative classes by stating on its website that renters do not have a cash option to  
19 pay the Golden Gate Bridge toll; and because (2) Defendants make the partial  
20 representation that that the Golden Gate Bridge tolls do not accept cash, but suppress the  
21 material fact that Hertz renters are able to pay the Golden Gate Bridge toll online, over  
22 the phone, or at a cash-payment kiosks within 48 hours of crossing the bridge, or by mail  
23 upon receipt of a toll invoice, thereby avoiding the PlatePass service fee.
- 24 31. Defendants' failure to disclose the fact that Hertz renters are able to pay the Golden Gate  
25 Bridge toll online, over the phone, or at a cash payment kiosks within 48 hours of  
26 crossing the bridge, or by mail upon receipt of a toll invoice, thereby avoiding the  
27

1 PlatePass service fee, and its attendant active concealment and partial representations  
2 concerning that fact, is material because a reasonable consumer would deem the  
3 existence of the option to avoid the service fee important in determining his or her  
4 options with respect to paying the Golden Gate Bridge toll.

5 32. Defendants' failure to disclose the fact that Hertz renters are able to pay the Golden Gate  
6 Bridge toll online, over the phone, or at a cash-payment kiosks within 48 hours of  
7 crossing the bridge, or by mail upon receipt of a toll invoice, thereby avoiding the  
8 PlatePass service fee, and its attendant active concealment and partial representations  
9 concerning that fact, is likely to deceive members of the public.

10 33. Plaintiff and putative Class Members suffered harm in the amount of the service fee(s)  
11 charged by Defendants.

12 34. Defendants knew, or should have known, that its failure to disclose the fact that Hertz  
13 renters are able to pay the Golden Gate Bridge toll online, over the phone, or at a cash-  
14 payment kiosks within 48 hours of crossing the bridge, or by mail upon receipt of a toll  
15 invoice, thereby avoiding the PlatePass service fee, and its attendant active concealment  
16 and partial representations concerning that fact, is misleading, and is intended to trick  
17 potential customers into incurring avoidable service fees. Defendants therefore intended  
18 and continue to intend to cause injury to Plaintiff and putative class members or engaged  
19 in despicable conduct with a willful and conscious disregard for their customers' rights.  
20

21 **VI. FIRST CLAIM**

22 **Violation Of The California Consumer Legal Remedies Act**

23 **(Cal. Civ. Code § 1750, *et seq.*)**

24 35. Plaintiff, on behalf of himself and members of putative class associated with this claim,  
25 realleges and incorporates by reference the allegations in the preceding paragraphs as if  
26 fully alleged herein.  
27 //  
28

- 1       36. The CLRA prohibits unfair methods of competition and unfair or deceptive acts or  
2 practices in connection with the sale or lease of goods or services to a consumer, and  
3 specifically proscribes, *inter alia*:
- 4           a. Representing that goods or services have sponsorship, approval, characteristics,  
5 ingredients, uses, benefits, or quantities which they do not have or that a person  
6 has a sponsorship, approval, status, affiliation, or connection which he or she  
7 does not have.
- 8           b. Representing that goods or services are of a particular standard, quality, or grade,  
9 or that goods are of a particular style or model, if they are of another.
- 10          c. Representing that a transaction confers or involves rights, remedies, or  
11 obligations which it does not have or involve, or which are prohibited by law.
- 12       37. The CLRA extends to both affirmative representations as well as omissions if a  
13 defendant has a duty to disclose such omission.
- 14       38. Defendants has a duty to disclose the fact that Hertz renters are able to pay the Golden  
15 Gate Bridge toll online, over the phone, or at a cash-payment kiosks within 48 hours of  
16 crossing the bridge, or by mail upon receipt of a toll invoice, thereby avoiding the  
17 PlatePass service fee, because of its active concealment and partial representations  
18 concerning that fact.
- 19       39. Defendants' failure to disclose the fact that Hertz renters are able to pay the Golden Gate  
20 Bridge toll online, over the phone, or at a cash-payment kiosks within 48 hours of  
21 crossing the bridge, or by mail upon receipt of a toll invoice, thereby avoiding the  
22 PlatePass service fee, is an omission of material fact because Plaintiff would have  
23 elected to pay for the toll online, over the phone, or at a cash-payment kiosks within 48  
24 hours of crossing the bridge, or by mail upon receipt of a toll invoice, thereby avoiding  
25 the PlatePass service fee, had Defendants informed him of these payment options.
- 26       //  
27  
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40. A reasonable person would attach importance to the fact that Hertz renters are able to pay the Golden Gate Bridge toll online, over the phone, or at a cash-payment kiosks within 48 hours of crossing the bridge, or by mail upon receipt of a toll invoice, thereby avoiding the PlatePass service fee, in determining how to pay for the Golden Gate Bridge toll.
  41. Plaintiff and members of the putative class associated with this claim suffered harm as a result of Defendants' violation of the CLRA and are entitled to injunctive relief and restitution or disgorgement according to proof. Pursuant to Cal. Civ. Code § 1782(d), Plaintiff expressly reserves the right to file an amended complaint requesting statutory minimum damages, actual damages, and punitive damages after compliance with the notice requirements of Cal. Civ. Code § 1782.
  42. Plaintiff has filed an Affidavit of Venue as required by the CLRA. (*See Exhibit B.*)

## VII. SECOND CLAIM

## **Violation of the California Unfair Competition Law (Unlawful Business Practices)**

**(Cal. Bus. & Prof. Code § 17200, et seq.)**

43. Plaintiff, on behalf of himself and members of the putative class associated with this claim, reallege and incorporate by reference the allegations in the preceding paragraphs as if fully alleged herein.
  44. The “unlawful” prong of the UCL borrows violations of other laws and treats them as unlawful practices, which the UCL then makes independently actionable. Thus, a violation of the CLRA is also an unlawful business practice.
  45. Defendants’ omission of the fact that Hertz renters are able to pay the Golden Gate Bridge toll online, over the phone, or at a cash-payment kiosks within 48 hours of crossing the bridge, or by mail upon receipt of a toll invoice, thereby avoiding the PlatePass service fee, and its attendant active concealment and partial representations concerning that fact, is a violation of the CLRA, and is therefore an unlawful business

1 practice in violation of the UCL.

2 46. Plaintiff and members of the putative class associated with this claim suffered harm as a  
3 result of Defendants' unlawful business practice and are entitled to injunctive relief and  
4 restitution or disgorgement according to proof.

5 **VIII. THIRD CLAIM**

6 **Violation of the California Unfair Competition Law (Unfair Business Practices)**

7 **(Cal. Bus. & Prof. Code § 17200, *et seq.*)**

8 47. Plaintiff, on behalf of himself and members of the putative class associated with this  
9 claim, reallege and incorporate by reference the allegations in the preceding paragraphs  
10 as if fully alleged herein.

11 48. The UCL creates a claim for a business practice that is unfair even if not specifically  
12 proscribed by some other law.

13 49. Defendants' failure to disclose the fact that Hertz renters are able to pay the Golden Gate  
14 Bridge toll online, over the phone, or at a cash-payment kiosks within 48 hours of  
15 crossing the bridge, or by mail upon receipt of a toll invoice, thereby avoiding the  
16 PlatePass service fee, and its attendant active concealment and partial representations  
17 concerning that fact, is an unfair business practice because, as described herein, is  
18 immoral, unethical, oppressive, unscrupulous or substantially injurious to consumers.

19 50. Defendants' failure to disclose the fact that Hertz renters are able to pay the Golden Gate  
20 Bridge toll online, over the phone, or at a cash-payment kiosks within 48 hours of  
21 crossing the bridge, or by mail upon receipt of a toll invoice, thereby avoiding the  
22 PlatePass service fee, and its attendant active concealment and partial representations  
23 concerning that fact, is unfair as declared by State of California's legislated policy  
24 against (1) unfair methods of competition and unfair or deceptive acts or practices in  
25 connection with the sale or lease of goods or services to a consumer as codified in the  
26 CLRA; and (2) imposing unavoidable service charges in connection with the rental of a  
27  
28

1 vehicle as codified in Cal. Civ. Code § 1936.

- 2 51. Additionally, Defendants' failure to disclose the fact that Hertz renters are able to pay  
3 the Golden Gate Bridge toll online, over the phone, or at a cash-payment kiosks within  
4 48 hours of crossing the bridge, or by mail upon receipt of a toll invoice, thereby  
5 avoiding the PlatePass service fee, and its attendant active concealment and partial  
6 representations concerning that fact, is an unfair business practice because it is of no  
7 utility except to provide Defendants with ill-gotten gains, and is far exceeded by the  
8 gravity of harm of charging service fees to putative class members.  
9 52. Plaintiff and the putative class associated with this claim suffered harm as a result of  
10 Defendants' unfair business practice and are entitled to injunctive relief and restitution  
11 or disgorgement according to proof.  
12

#### IX. FOURTH CLAIM

##### **Violation of the California Unfair Competition Law (Fraudulent Business Practices)**

(Cal. Bus. & Prof. Code § 17200, *et seq.*)

- 13 53. Plaintiff, on behalf of himself and the putative class associated with this claim, reallege  
14 and incorporate by reference the allegations in the preceding paragraphs as if fully  
15 alleged herein.  
16 54. The UCL prohibits as fraudulent business practices those practices that are likely to  
17 deceive members of the public.  
18 55. Defendants' failure to disclose the fact that Hertz renters are able to pay the Golden Gate  
19 Bridge toll online, over the phone, or at a cash-payment kiosks within 48 hours of  
20 crossing the bridge, or by mail upon receipt of a toll invoice, thereby avoiding the  
21 PlatePass service fee, and its attendant active concealment and partial representations  
22 concerning that fact, is likely to deceive members of the public.  
23  
24 //  
25 //  
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1 56. Plaintiff and the putative class associated with this claim suffered harm as a result of  
2 Defendants' fraudulent business practice and are entitled to injunctive relief and  
3 restitution or disgorgement according to proof.

4 **X. CLASS ALLEGATIONS (CLRA CLAIM)**

5 57. Plaintiff's claim for Defendants' violation of the CLRA is brought on behalf of himself  
6 and all others similarly situated pursuant to the class action mechanism set forth in  
7 Federal Rule of Civil Procedure 23(a) and (b)(3).

8 58. This putative class, hereafter referred to as the "CLRA Class" is defined as:

9  
10 All individuals who, between March 27, 2013 and the resolution of this  
11 action, rented a car from a Hertz location in California and who were  
12 charged a PlatePass fee arising exclusively from driving through the  
Golden Gate Bridge toll plaza.

13 59. Excluded from the class are Defendants' officers and directors, attorney(s) for the class,  
any judge who sits on this case, and any person who previously settled or adjudicated a  
claim involving a dispute over the claims asserted herein within the class period.

14 **A. ASCERTAINABILITY**

15 60. Plaintiff is informed and believes that it is administratively feasible to determine class  
members with Defendants' records of assessed PlatePass fees.

16 **B. NUMEROSITY**

17 61. Plaintiff is informed and believes that tens of thousands or hundreds of thousands of  
individuals are in the proposed class.

18 **C. COMMONALITY**

19 62. Members of the CLRA Class share common issues of law, including whether  
Defendants' practice of failing to disclose the fact that Hertz renters are able to pay the  
Golden Gate Bridge toll online, over the phone, or at a cash-payment kiosks within 48  
hours of crossing the bridge, or by mail upon receipt of a toll invoice, thereby avoiding  
the PlatePass service fee, is a violation of the CLRA.

1       63. The common issue of law can be answered with proof common to members of the  
2                   CLRA Class, including that it is Defendants' uniform practice to fail to disclose the fact  
3                   that Hertz renters are able to pay the Golden Gate Bridge toll online, over the phone, or  
4                   at a cash-payment kiosks within 48 hours of crossing the bridge, or by mail upon receipt  
5                   of a toll invoice, thereby avoiding the PlatePass service fee.

64. Members of the CLRA Class share common issues of fact, including whether  
6 Defendants' failure to disclose the fact that Hertz renters are able to pay the Golden Gate  
7 Bridge toll online, over the phone, or at a cash-payment kiosks within 48 hours of  
8 crossing the bridge, or by mail upon receipt of a toll invoice, thereby avoiding the  
9 PlatePass service fee, is a material non-disclosure (i.e., whether a reasonable person  
10 would attach importance to its existence or nonexistence in determining his choice of  
11 action in the transaction in question).

## D. TYPICALITY

15 65. Plaintiff's CLRA claim is reasonably co-extensive with claims of the members of the  
16 CLRA Class, if not substantially identical.

E. ADEQUACY

18 66. Plaintiff is a member of the CLRA Class and will fairly and adequately represent and  
19 protect the interests of the members of the CLRA Class. Plaintiff has no conflicts of  
20 interests with members of the CLRA Class and will prosecute the action vigorously on  
21 behalf of the class.

22 67. Counsel for Plaintiff is competent and experienced in litigating class actions and will  
23 fairly and adequately represent and protect the interests of the members of the CLRA  
24 Class. Counsel has no conflicts of interests with members of the CLRA Class and will  
25 prosecute the action vigorously on behalf of the class.

26 //  
27 //

1      **F. PREDOMINANCE**

2      68. Common questions of law and fact predominate over individual issues with respect to  
3      Plaintiff's CLRA claim because Defendants' practice of failing to disclose the fact that  
4      Hertz renters are able to pay the Golden Gate Bridge toll online, over the phone, or at a  
5      cash-payment kiosks within 48 hours of crossing the bridge, or by mail upon receipt of a  
6      toll invoice, thereby avoiding the PlatePass service fee, is a uniform non-disclosure.

7      **G. SUPERIORITY**

8      69. A class action is superior to all other available methods for the fair and efficient  
9      adjudication of this controversy because of the small monetary value of the CLRA claim  
10     asserted by Plaintiff and members of the CLRA Class and because adjudicating  
11     Plaintiff's CLRA claim on a class basis will be significantly less burdensome to the  
12     judicial system than if the matter were prosecuted individually.

13     **XI. CLASS ALLEGATIONS (UCL CLAIM – UNLAWFUL BUSINESS PRACTICES)**

14     70. Plaintiff's claim for Defendants' violation of the "unlawful" prong of the UCL is  
15     brought on behalf of himself and all others similarly situated pursuant to the class action  
16     mechanism set forth in Federal Rule of Civil Procedure 23(a) and (b)(3).

17     71. This putative class, hereafter referred to as the "Unlawful Business Practices Class" is  
18     defined as:

19  
20        All individuals who, between March 27, 2013 and the resolution of this  
21        action, rented a car from a Hertz location in California and who were  
22        charged a PlatePass fee arising exclusively from driving through the  
Golden Gate Bridge toll plaza.

23     72. Excluded from the class are Defendants' officers and directors, attorney(s) for the class,  
24     any judge who sits on this case, and any person who previously settled or adjudicated a  
25     claim involving a dispute over the claims asserted herein during the class period.

26     //

27     //

## A. ASCERTAINABILITY

73. Plaintiff is informed and believes that it is administratively feasible to determine class members with Defendants' records of assessed PlatePass fees.

## B. NUMEROSITY

74. Plaintiff is informed and believes that tens of thousands or hundreds of thousands of individuals are in the proposed class.

## C. COMMONALITY

75. Members of the Unlawful Business Practices Class share common issues of law, including whether Defendants' practice of failing to disclose the fact that Hertz renters are able to pay the Golden Gate Bridge toll online, over the phone, or at a cash-payment kiosks within 48 hours of crossing the bridge, or by mail upon receipt of a toll invoice, thereby avoiding the PlatePass service fee, is a violation of the CLRA and, therefore, an unlawful business practice.

#### D. TYPICALITY

76. Plaintiff's unlawful business practices claim is reasonably co-extensive with claims of the members of the Unlawful Business Practices Class, if not substantially identical.

## E. ADEQUACY

77. Plaintiff is a member of the Unlawful Business Practices Class and will fairly and adequately represent and protect the interests of the members of the Unlawful Business Practices Class. Plaintiff has no conflicts of interests with members of the Unlawful Business Practices Class and will prosecute the action vigorously on behalf of the class.

78. Counsel for Plaintiff is competent and experienced in litigating class actions and will fairly and adequately represent and protect the interests of the members of the Unlawful Business Practices Class. Counsel has no conflicts of interests with members of the Unlawful Business Practices Class and will prosecute the action vigorously on behalf of the class.

1      **F. PREDOMINANCE**

2    79. Common questions of law and fact predominate over individual issues with respect to  
3    Plaintiff's unlawful business practices claim because Defendants' practice of failing to  
4    disclose the fact that Hertz renters are able to pay the Golden Gate Bridge toll online,  
5    over the phone, or at a cash-payment kiosks within 48 hours of crossing the bridge, or by  
6    mail upon receipt of a toll invoice, thereby avoiding the PlatePass service fee, is a  
7    uniform non-disclosure.

8      **G. SUPERIORITY**

9    80. A class action is superior to all other available methods for the fair and efficient  
10   adjudication of this controversy because of the small monetary value of the unlawful  
11   business practices claim asserted by Plaintiff and members of the Unlawful Business  
12   Practices Class and because adjudicating Plaintiff's unlawful business practices claim on  
13   a class basis will be significantly less burdensome to the judicial system than if the  
14   matter were prosecuted individually.  
15

16      **XII. CLASS ALLEGATIONS (UCL CLAIM – UNFAIR BUSINESS PRACTICES)**

17    81. Plaintiff's claim for Defendants' violation of the "unfair" prong of the UCL is brought  
18   on behalf of himself and all others similarly situated pursuant to the class action  
19   mechanism set forth in Federal Rule of Civil Procedure 23(a) and (b)(3).

20    82. This putative class, hereafter referred to as the "Unfair Business Practices Class" is  
21   defined as:

22                  All individuals who, between March 27, 2013 and the resolution of this  
23   action, rented a car from a Hertz location in California and who were  
24   charged a PlatePass fee arising exclusively from driving through the  
Golden Gate Bridge toll plaza.

25    83. Excluded from the class are Defendants' officers and directors, attorney(s) for the class,  
26   any judge who sits on this case, and any person who previously settled or adjudicated a  
27   claim involving a dispute over the claims asserted herein during the class period.  
28

## A. ASCERTAINABILITY

84. Plaintiff is informed and believes that it is administratively feasible to determine class members with Defendants' records of assessed PlatePass fees.

## B. NUMEROSITY

85. Plaintiff is informed and believes that tens of thousands or hundreds of thousands of individuals are in the proposed class.

### C. COMMONALITY

86. Members of the Unfair Business Practices Class share common issues of law, including whether Defendants' failure to disclose the fact that Hertz renters are able to pay the Golden Gate Bridge toll online, over the phone, or at a cash-payment kiosks within 48 hours of crossing the bridge, or by mail upon receipt of a toll invoice, thereby avoiding the PlatePass service fee, is a violation of the "unfair" prong of the UCL.

87. The common issue of law can be answered with proof common to members of the Unfair Business Practices Class, including that it is Defendants' uniform practice to fail to disclose the fact that Hertz renters are able to pay the Golden Gate Bridge toll online, over the phone, or at a cash-payment kiosks within 48 hours of crossing the bridge, or by mail upon receipt of a toll invoice, thereby avoiding the PlatePass service fee.

88. Members of the Unfair Business Practices Class share common issues of fact, including whether Defendants' failure to disclose the fact that Hertz renters are able to pay the Golden Gate Bridge toll online, over the phone, or at a cash-payment kiosks within 48 hours of crossing the bridge, or by mail upon receipt of a toll invoice, thereby avoiding the PlatePass service fee, is an immoral, unethical, oppressive, unscrupulous, or substantially injurious business practice to consumers, and/or whether the utility of this failure to disclose is exceeded by the gravity of the harm caused by it.

11

11

1      **D. TYPICALITY**

2      89. Plaintiff's UCL (Unfair Business Practices) claim is reasonably co-extensive with the  
3      claims of the members of the Unfair Business Practices Class, if not substantially  
4      identical.

5      **E. ADEQUACY**

6      90. Plaintiff is a member of the Unfair Business Practices Class and will fairly and  
7      adequately represent and protect the interests of the members of the Class. Plaintiff has  
8      no conflicts of interests with members of the Unfair Business Practices Class and will  
9      prosecute the action vigorously on behalf of the Class.

10     91. Counsel for Plaintiff is competent and experienced in litigating class actions and will  
11    fairly and adequately represent and protect the interests of the members of the Unfair  
12    Business Practices Class. Counsel has no conflicts of interests with members of the  
13    Unfair Business Practices Class and will prosecute the action vigorously on behalf of the  
14    class.

15     **F. PREDOMINANCE**

16     92. Common questions of law and fact predominate over individual issues with respect to  
17    Plaintiff's unfair business practices claim because Defendants' practice of failing to  
18    disclose the fact that Hertz renters are able to pay the Golden Gate Bridge toll online,  
19    over the phone, or at a cash-payment kiosks within 48 hours of crossing the bridge, or by  
20    mail upon receipt of a toll invoice, thereby avoiding the PlatePass service fee is a  
21    uniform non-disclosure.

22     **G. SUPERIORITY**

23     93. A class action is superior to all other available methods for the fair and efficient  
24    adjudication of this controversy because of the small monetary value of the unfair  
25    business practices claim asserted by members of the Unfair Business Practices Class and  
26    because adjudicating Plaintiff's unfair business practices claim on a class basis will be  
27  
28

1 significantly less burdensome to the judicial system than if the matter were prosecuted  
2 individually.

3 **XIII. CLASS ALLEGATIONS (UCL CLAIM – FRAUDULENT BUSINESS**

4 **PRACTICES)**

- 5 Plaintiff's claim for Defendants' violation of the "fraudulent" prong of the UCL is  
6 brought on behalf of himself and all others similarly situated pursuant to the class action  
7 mechanism set forth in Federal Rule of Civil Procedure 23(a) and (b)(3).
- 8 95. This putative class, hereafter referred to as the "Fraudulent Business Practices Class" is  
9 defined as:

10  
11 All individuals who, between March 27, 2013 and the resolution of this  
12 action, rented a car from a Hertz location in California and who were  
13 charged a PlatePass fee arising exclusively from driving through the  
Golden Gate Bridge toll plaza.

- 14 96. Excluded from the class are Defendants' officers and directors, attorney(s) for the class,  
15 any judge who sits on this case, and any person who previously settled or adjudicated a  
16 claim involving a dispute over the claims asserted herein during the class period.

17 **A. ASCERTAINABILITY**

- 18 97. Plaintiff is informed and believes that it is administratively feasible to determine class  
19 members with Defendants' records of assessed PlatePass fees.

20 **B. NUMEROSITY**

- 21 98. Plaintiff is informed and believes that tens of thousands or hundreds of thousands of  
22 individuals are in the proposed class.

23 **C. COMMONALITY**

- 24 99. Members of the Fraudulent Business Practices Class share common issues of law,  
25 including whether Defendants' representation to the public that it is not possible to pay  
26 the Golden Gate Bridge toll with cash, and their failure to disclose the fact that Hertz  
27 renters are able to pay the Golden Gate Bridge toll online, over the phone, or at a cash-

1 payment kiosks within 48 hours of crossing the bridge, or by mail upon receipt of a toll  
2 invoice, thereby avoiding the PlatePass service fee, is a violation of the “fraudulent”  
3 prong of the UCL because it is likely to deceive members of the public.

- 4 100. The common issue of law can be answered with proof common to members of the  
5 Fraudulent Business Practices Class, including that Defendants uniformly inform the  
6 public that it is not possible to pay the Golden Gate Bridge toll with cash, and also  
7 uniformly fail to disclose to the public the fact that Hertz renters are able to pay the  
8 Golden Gate Bridge toll online, over the phone, or at a cash-payment kiosks within 48  
9 hours of crossing the bridge, or by mail upon receipt of a toll invoice, thereby avoiding  
10 the PlatePass service fee.

11 **D. TYPICALITY**

- 12 101. Plaintiff’s fraudulent business practices claim is reasonably co-extensive with the claims  
13 of the members of the Fraudulent Business Practices Class, if not substantially identical.

14 **E. ADEQUACY**

- 15 102. Plaintiff is a member of the Fraudulent Business Practices Class and will fairly and  
16 adequately represent and protect the interests of the members of the Fraudulent Business  
17 Practices Class. Plaintiff has no conflicts of interests with members of the Fraudulent  
18 Business Practices Class and will prosecute the action vigorously on behalf of the class.

- 19 103. Counsel for Plaintiff is competent and experienced in litigating class actions and will  
20 fairly and adequately represent and protect the interests of the members of the Fraudulent  
21 Business Practices Class. Counsel has no conflicts of interests with members  
22 of the Fraudulent Business Practices Class and will prosecute the action vigorously on  
23 behalf of the class.

24 **F. PREDOMINANCE**

- 25 104. Common questions of law and fact predominate over individual issues with respect to  
26 Plaintiff’s fraudulent business practices claim because Defendants uniformly inform the  
27

1 public that it is not possible to pay the Golden Gate Bridge toll with cash, and also  
2 uniformly fail to disclose to the public the fact that Hertz renters are able to pay the  
3 Golden Gate Bridge toll online, over the phone, or at a cash-payment kiosks within 48  
4 hours of crossing the bridge, or by mail upon receipt of a toll invoice, thereby avoiding  
5 the PlatePass service fee.

6 **G. SUPERIORITY**

7 105. A class action is superior to all other available methods for the fair and efficient  
8 adjudication of this controversy because of the small monetary value of the fraudulent  
9 business practices claim asserted by members of the Fraudulent Business Practices Class  
10 and because adjudicating Plaintiff's fraudulent business practices claim on a class basis  
11 will be significantly less burdensome to the judicial system than if the matter were  
12 prosecuted individually.  
13

**PRAYER FOR RELIEF<sup>2</sup>**

14 106. Plaintiff, on behalf of himself and the members of each putative class, prays for relief as  
15 follows:  
16  
17 a. Certification of this action as a class action as described above;  
18 b. Designation of Plaintiff as representative of each putative class;  
19 c. Designation of Plaintiff's Counsel as Class Counsel for each putative class;  
20 d. Restitution pursuant to Cal. Bus. & Prof. Code § 17200, *et seq.* or Cal. Civ. Code  
21 § 1780(a);  
22 e. Injunctive relief pursuant to Cal. Bus. & Prof. Code § 17200, *et seq.* or Cal. Civ.  
23 Code § 1780(a);  
24 f. Attorneys' fees pursuant to Cal. Civ. Code § 1780(e), Cal. Civ. P. § 1021.5, or as  
25 provided by the parties' agreement, if any;  
26

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27 <sup>2</sup> Pursuant to Cal. Civ. Code § 1782(d), Plaintiff reserves the right to amend his complaint to include a request for  
28 actual damages, statutory damages, and punitive damages pursuant to Cal. Civ. Code § 1780(a) after he meets the  
notice requirements of Cal. Civ. Code § 1782.

- 1 g. Costs pursuant to Fed. R. Civ. P. 54(d), Local Rule 292, Cal. Code Civ. P. §
- 2 1021, or as provided by the parties' agreement, if any;
- 3 h. Interest to the extent provided by law; and
- 4 i. Such other relief as the Court may deem just.

5

6 **REQUEST FOR JURY TRIAL**

7

8 Plaintiff, on behalf of himself and all other similarly situated, requests a jury trial on all  
issues so triable.

9

10 Dated: June 26, 2015

11 Carlson Legal Services

12 By: /s/ Matthew D. Carlson  
13 Matthew D. Carlson  
14 Attorney for Plaintiff